IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL No : 922 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/01/2005 in WP No:3583 OF 2003 on the file of the High Court.)

Between:

N.Narayana Reddy, S/o N.Narsimha Reddy, Occ: Ex-Conductor,
Staff No.E.87997, Plot No.30, Suryodaya Colony, L.B.Nagar, Hyderabad,
Ranga Reddy District.

..... APPELLANT

AND

1. The Labour court, Hyderabad-I, rep.by its Presiding Officer

Chandra Vihar Complex, M.J.Road., Hyderabad.
2 The Depot Manager.,APSRTC.,Tandur, Ranga Reddy District.

.....RESPONDENTS

Counsel for the Appellant : MR.A.K.JAYAPRAKASH RAO

Counsel for Respondent No.1: GP FOR LABOUR

Counsel for Respondent No.2 : MR.V.T.M.PRASAD, STANDING COUNSEL FOR APSRTC

The Court made the following :

JUDGMENT: (per the Hon'ble Smt.Justice T.Meena Kumari)

This Writ Appeal is filed by the appellant-writ petitioner aggrieved by the Order dated 18.01.2005 in Writ Petition No.3583 of 2003 passed by a learned single Judge of this Court.

The said Writ Petition was filed to quash the award passed by the first respondent in I.D.No.153 of 1999 dated 17.09.2002 and to grant all the consequential benefits.

The brief facts of the case are as follows:

The writ petitioner joined the service of the second respondent-Corporation as a Conductor in the year 1979 and was discharging his duties. While so, on 27.10.1998, when he was conducting the bus on route Nancherla to Mumbai, a check was exercised by the checking official at stage No.21 and a charge memo was served on him. Basing on the charge memo, the second respondent issued a charge sheet on 06.11.1998 framing four charges to which the writ petitioner has submitted his explanation on 16.11.1998. It is the case of the writ petitioner that the second respondent without considering the explanation submitted by him, ordered for an enquiry. The Enquiry Officer submitted a Report, as per which the charges were proved against the writ petitioner. The writ petitioner filed his objections against the Enquiry Report on 01.02.1999. Without considering the said objections, the respondent-authorities issued a show cause notice dated 01.03.1999 for his removal from service and was removed on 31.03.1999. Since the appeals filed by him were rejected, he approached the Labour Court by way of filing I.D.No.153 of 1999 and the Labour Court after going into the merits of the case, dismissed the said I.D. through award dated 17.09.2002. Aggrieved by the same, the Writ Petition has been filed by him to quash the award.

A counter-affidavit has been filed on behalf of the second respondent denying the allegations made by the writ petitioner.

The learned single Judge while concurring with the view taken by the Labour Court, dismissed the writ petition holding that the appellant herein has failed to lead any evidence with regard to the exchange of tickets by the passengers themselves nor there is any material or evidence to rebut the charges made against him in respect of the tickets, which have been found on the floor of the bus.

The case of the writ petitioner is that while he was conducting the bus on 27.10.1998 on route Nancherla to Mumbai, a check was exercised by the checking official and a charge memo was served on him and basing on the charge memo, a charge sheet was issued by the second respondent framing four charges. Charge Nos. 1 and 2 deal with issuance of used tickets to the passengers. Charge No.3 deals with non-closure of the S.R. at stage No.21 and Charge No.4 deals with possession of used tickets with the writ petitioner. Later, he submitted his explanation and without considering the same, an enquiry was ordered. The Enquiry Officer submitted his report stating that the charges are proved. Thereafter, a show-cause notice for his removal was issued and he was removed from service on 31.03.1999.

Learned counsel appearing on behalf of the appellant has argued that the appellant has received the show-cause notice for his removal on 25.03.1999 and without giving any opportunity to submit his explanation, the removal order was passed on 31.03.1999 by the second respondent.

We have also had an occasion to go through the removal order. It is stated in the removal order that a show-cause notice for removal from service was issued to the writ petitioner by way of a Registered Post but the postal authorities returned back the RPAD cover stating that “Addressee not available for seven days”. Hence, the copy of show-cause notice for removal was exhibited on the Notice Board of Traffic Section, Tandur for seven days i.e., from 19.03.1999 to 26.03.1999 duly obtaining the signatures of two witnesses. It is also stated in the order that the writ petitioner failed to submit his explanation to the show-cause notice.

The contention of the learned Standing counsel for the second respondent is that affixing the show-cause notice for removal on the Notice Board is a mode of

substituted service.

We do not find any force in the contention raised by the learned Standing Counsel for the respondent-Corporation for the reason that it violates the principles of natural justice. But, the fact remains that the appellant has received the show-cause notice on 25.03.1999 and hence, the chances of submitting his explanation to the said show-cause notice are shortened down by the conduct of the respondent-Corporation. It has to be observed that the respondent-Corporation being a Semi-Government Organisation could have resorted to publication of the show-cause notice in the newspapers as an alternative mode of service. Even though it is stated by the respondent-Corporation that the show-cause notice has been served on the appellant on 25.03.1999, he was removed from service on 31.03.1999 i.e., within a period of one week from the date of receipt of the show-cause notice.

Under the above circumstances, it has to be observed that the action of the respondent-Corporation in removing the appellant from service is violative of principles of natural justice and hence the removal order passed by the respondent-Corporation on 31.03.1999 is quashed and the respondent-Corporation is directed to reinstate the appellant herein into service with continuity of service, without back wages and also without any attendant benefits. But, the continuity of service shall be taken into consideration only for the purpose of calculation of pension and gratuity at the time of his retirement.

With the above observations, the Award of the Labour Court is modified and consequently, the Writ Petition is allowed and the Writ Appeal is disposed of. No costs.

(T.MEENA KUMARI, J)

(P.LAKSHMANA REDDY, J)

Dt: 29.06.2005

bsv/lvl

To

1. The Presiding Officer, Labour Court, Hyderabad-I,

Chandra Vihar Complex, M.J.Road., Hyderabad.

2 The Depot Manager.,APSRTC.,Tandur, Ranga Reddy

District.

3. Two CCs. to the Government Pleader for Labour, High Court of A.P., Hyderabad (OUT)

4. Two CD copies